

AMENDED IN ASSEMBLY JANUARY 4, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 237**

**Introduced by Assembly Member Arambula**

February 7, 2005

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An act to amend Section ~~50517.5~~ of the Health and Safety Code ~~63040~~ of the Government Code, relating to ~~housing infrastructure finance~~, and, declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 237, as amended, Arambula. ~~Farmworker housing. Infrastructure finance.~~

Existing law requires the Department of Housing and Community Development to establish the Joe Serna, Jr. Farmworker Housing Grant Program under which grants or loans are made to local public entities, nonprofit corporations, and limited partnerships for the construction or rehabilitation of housing for agricultural employees and their families.

Existing law authorizes the loan of funds to a grantee at no more than 3 percent simple interest upon request of a grantee, and requires that grants and loans be matched by the grantee with at least equal amounts of federal moneys, other cash investments, or in-kind contribution.

This bill would authorize the department to forgive a loan if it determines forgiveness is necessary to the financing or continued viability of housing pursuant to this program. The bill would also authorize the department to waive the matching requirement for migrant housing funded by specified bond funds if the department finds that the waiver is necessary to ensure the housing can be financed.

*Existing law establishes the Infrastructure and Economic Development Bank within state government. The bank is authorized to make secured loans and undertake related activities for the purpose of financing projects, as defined, that relate to infrastructure improvements. The bank is required to establish criteria, priorities, and guidelines for the selection of projects to receive assistance from the bank and to notify the Governor, specified committees of the Legislature, and appropriate state and local agencies when it establishes or changes the criteria, priorities, and guidelines.*

*This bill would require the notification to include an explanation of the ways in which the changes to the criteria, priorities, and guidelines will better serve the areas with the greatest need for economic development.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 63040 of the Government Code is  
2     amended to read:

3     63040. (a) Following consultation with appropriate state and  
4     local agencies, the bank shall establish criteria, priorities, and  
5     guidelines for the selection of projects to receive assistance from  
6     the bank. Projects shall comply with the criteria, priorities, and  
7     guidelines adopted by the bank.

8     (b) The criteria, priorities, and guidelines shall, at a minimum,  
9     be based upon the following:

10    (1) The State Environmental Goals and Policy Report, or its  
11    successor, approved pursuant to Article 5 (commencing with  
12    Section 65041) of Chapter 1.5 of Division 1 of Title 7.

13    (2) If the sponsor is a state agency, board, commission, or  
14    department, the Capital and Infrastructure Project Planning  
15    Report, prepared by the Director of Finance pursuant to Article 2  
16    (commencing with Section 13100) of Chapter 2 of Part 3 of  
17    Division 3 of Title 2.

18    (c) When the bank establishes or makes changes to the criteria,  
19    priorities, and guidelines, the bank shall notify the Governor, the  
20    fiscal and policy committees of the Legislature that exercise

1 legislative oversight of the bank, and appropriate state and local  
2 agencies. *This notification shall include an explanation of the*  
3 *ways in which the changes to the criteria, priorities, and*  
4 *guidelines will better serve the areas with the greatest need for*  
5 *economic development.*

6 (d) The resolution required in Section 63041 shall have been  
7 adopted prior to the project's selection by the bank.

8 *SEC. 2. This act is an urgency statute necessary for the*  
9 *immediate preservation of the public peace, health, or safety*  
10 *within the meaning of Article IV of the Constitution and shall go*  
11 *into immediate effect. The facts constituting the necessity are:*

12 *In order to make immediate changes in the notification*  
13 *requirements of the California Infrastructure and Economic*  
14 *Development Bank to ensure that changes to the bank's criteria,*  
15 *priorities, and guidelines are consistent with its mission to*  
16 *promote economic growth, revitalize communities, and enhance*  
17 *the quality of life throughout California, it is necessary that this*  
18 *act take effect immediately.*

19 ~~SECTION 1. Section 50517.5 of the Health and Safety Code~~  
20 ~~is amended to read:~~

21 ~~50517.5. (a) (1) The department shall establish the Joe~~  
22 ~~Serna, Jr. Farmworker Housing Grant Program under which,~~  
23 ~~subject to the availability of funds therefor, grants or loans, or~~  
24 ~~both, shall be made to local public entities, nonprofit~~  
25 ~~corporations, and limited partnerships, for the construction or~~  
26 ~~rehabilitation of housing for agricultural employees and their~~  
27 ~~families or for the acquisition of manufactured housing as part of~~  
28 ~~a program to address and remedy the impacts of current and~~  
29 ~~potential displacement of farmworker families from existing~~  
30 ~~labor camps, mobilehome parks, or other housing. Under this~~  
31 ~~program, grants or loans, or both, may also be made for the cost~~  
32 ~~of acquiring the land and any building thereon in connection with~~  
33 ~~housing assisted pursuant to this section and for the construction~~  
34 ~~and rehabilitation of related support facilities necessary to the~~  
35 ~~housing. In its administration of this program, the department~~  
36 ~~shall disburse grants or loans, or both, to the local public entities,~~  
37 ~~nonprofit corporations, or limited partnerships or may, at the~~  
38 ~~request of the local public entity, nonprofit corporation, or~~  
39 ~~limited partnership that sponsors and supervises the rehabilitation~~  
40 ~~or construction program, disburse grant funds to agricultural~~

1 employees who are participants in a rehabilitation or construction  
2 program sponsored and supervised by the local public entity,  
3 nonprofit corporation, or limited partnership. No part of a grant  
4 or loan made pursuant to this section may be used for project  
5 organization or planning.

6 (2) ~~Notwithstanding any other provision of this chapter, upon~~  
7 ~~the request of a grantee the program also may loan funds to a~~  
8 ~~grantee at no more than 3 percent simple interest. Principal and~~  
9 ~~accumulated interest is due and payable upon completion of the~~  
10 ~~term of the loan. For any loan made pursuant to this subdivision,~~  
11 ~~the performance requirements of the lien shall remain in effect~~  
12 ~~for a period of no less than the original term of the loan. A loan~~  
13 ~~may be forgiven if the department determines that forgiveness of~~  
14 ~~the loan is necessary to the financing or continued viability of~~  
15 ~~housing made available pursuant to the program.~~

16 (3) ~~The program shall be administered by the Director of~~  
17 ~~Housing and Community Development and officers and~~  
18 ~~employees of the department as he or she may designate.~~

19 (b) (1) ~~The Joe Serna, Jr. Farmworker Housing Grant Fund is~~  
20 ~~hereby created in the State Treasury. Notwithstanding Section~~  
21 ~~13340 of the Government Code, all money in the fund is~~  
22 ~~continuously appropriated to the department for making grants or~~  
23 ~~loans, or both, pursuant to this section and Section 50517.10, for~~  
24 ~~purposes of Chapter 8.5 (commencing with Section 50710), and~~  
25 ~~for costs incurred by the department in administering these~~  
26 ~~programs.~~

27 (2) ~~There shall be paid into the fund the following:~~

28 (A) ~~Any moneys appropriated and made available by the~~  
29 ~~Legislature for purposes of the fund.~~

30 (B) ~~Any moneys that the department receives in repayment or~~  
31 ~~return of grants or loans from the fund, including any interest~~  
32 ~~therefrom.~~

33 (C) ~~Any other moneys that may be made available to the~~  
34 ~~department for the purposes of this chapter from any other source~~  
35 ~~or sources.~~

36 (D) ~~All moneys appropriated to the department for the~~  
37 ~~purposes of Chapter 8.5 (commencing with Section 50710) and~~  
38 ~~any moneys received by the department from the occupants of~~  
39 ~~housing or shelter provided pursuant to Chapter 8.5~~  
40 ~~(commencing with Section 50710). These moneys shall be~~

1 separately accounted for from the other moneys deposited in the  
2 fund.

3 (e) (1) Grants and loans made pursuant to this section shall be  
4 matched by grantees with at least equal amounts of federal  
5 moneys, other cash investments, or in-kind contributions.

6 (2) For grant or loan requests of not more than five hundred  
7 thousand dollars (\$500,000), the department may waive a part of  
8 the matching fund requirement in this subdivision if the grantee  
9 demonstrates an inability, as may be established by the  
10 department in "Notices of Funding Availability," to secure  
11 adequate financing from other sources. Not more than 5 percent  
12 of the total amount appropriated to the department for the  
13 purposes of this section may be used to meet grant or loan  
14 requests in which a part of the matching fund requirement has  
15 been waived pursuant to this paragraph.

16 (3) For migrant housing funding pursuant to subparagraph (A)  
17 of paragraph (4) of subdivision (a) of Section 53533, the  
18 department may waive the matching fund requirement if it finds  
19 that a waiver is necessary to ensure the housing can be financed.

20 (d) With respect to the supervision of grantees, the department  
21 shall do the following:

22 (1) Establish minimum capital reserves to be maintained by  
23 grantees.

24 (2) Fix and alter from time to time a schedule of rents that may  
25 be necessary to provide residents of housing assisted pursuant to  
26 this section with affordable rents to the extent consistent with the  
27 maintenance of the financial integrity of the housing project. No  
28 grantee shall increase the rent on any unit constructed or  
29 rehabilitated with the assistance of funds provided pursuant to  
30 this section without the prior permission of the department,  
31 which shall be given only if the grantee affirmatively  
32 demonstrates that the increase is required to defray necessary  
33 operating costs or avoid jeopardizing the fiscal integrity of the  
34 housing project.

35 (3) Determine standards for, and control selection by grantees  
36 of, tenants and subsequent purchasers of housing constructed or  
37 rehabilitated with the assistance of funds provided pursuant to  
38 this section.

39 (4) (A) Require as a condition precedent to a grant or loan, or  
40 both, of funds that the applicant have site control that is

1 satisfactory to the department; that the grantee be record owner  
2 in fee of the assisted real property or provide other security  
3 including a lien on the manufactured home that is satisfactory to  
4 the department to ensure compliance with the construction,  
5 financial, and program obligations; and that the grantee shall  
6 have entered into a written agreement with the department  
7 binding upon the grantee and successors in interest to the grantee.  
8 The agreement shall include the conditions under which the  
9 funds advanced may be repaid. The agreement shall include  
10 provisions for a lien on the assisted real property or  
11 manufactured home in favor of the State of California for the  
12 purpose of securing performance of the agreement. The  
13 agreement shall also provide that the lien shall endure until  
14 released by the Director of Housing and Community  
15 Development.

16 (B) In the event that funds granted or loaned pursuant to this  
17 section constitute less than 25 percent of the total development  
18 cost or value, whichever is applicable, of a project assisted under  
19 this section, the department may adopt, by regulation, criteria for  
20 determining the number of units in a project to which the  
21 restrictions on occupancy contained in the agreement apply. In  
22 no event may these regulations provide for the application of the  
23 agreement to a percentage of units in a project that is less than  
24 the percentage of total development costs that funds granted or  
25 loaned pursuant to this section represent.

26 (C) Contemporaneously with the disbursement of the initial  
27 funds to a grantee, the department shall cause to be recorded, in  
28 the office of the county recorder of the county in which the  
29 assisted real property is located, a notice of lien executed by the  
30 Director of Housing and Community Development. The notice of  
31 lien shall refer to the agreement required by this paragraph for  
32 which it secures and it shall include a legal description of the  
33 assisted real property that is subject to the lien. The notice of lien  
34 shall be indexed by the recorder in the Grantor Index to the name  
35 of the grantee and in the Grantee Index to the name of the State  
36 of California, Department of Housing and Community  
37 Development. For manufactured housing, the liens shall be  
38 recorded by the department in the same manner as other  
39 manufactured housing liens are recorded. The department shall  
40 adopt by regulation criteria for the determination of the lien

1 period. This regulation shall take into account whether the  
2 property is held by multifamily rental, single-family ownership,  
3 or cooperative ownership and whether it is new construction or  
4 rehabilitative construction. The lien period for manufactured  
5 housing liens for manufactured homes shall not exceed 10 years.

6 (D) Pursuant to regulations adopted by the department, the  
7 department may execute and cause to be recorded in the office of  
8 the recorder of the county in which a notice of lien has been  
9 recorded, or the department, as appropriate, a subordination of  
10 the lien. The regulations adopted by the department shall provide  
11 that any subordination of the lien shall not jeopardize the security  
12 interest of the state and shall further the interest of farmworker  
13 housing. The recitals contained in the subordination shall be  
14 conclusive in favor of any bona fide purchaser or lender relying  
15 thereon.

16 (E) Prior to funds granted pursuant to this section being used  
17 to finance the acquisition of a manufactured home, the grantee  
18 shall ensure that the home either is already installed in a location  
19 where it will be occupied by the eligible household or that a  
20 location has been leased or otherwise made available for the  
21 manufactured home to be occupied by the eligible household.

22 (5) Regulate the terms of occupancy agreements or resale  
23 controls, to be used in housing assisted pursuant to this section.

24 (6) Provide linguistically appropriate services and  
25 publications, or require grantees to do so, as necessary to  
26 implement the purposes of this section.

27 (7) The agreement between the department and the grantee  
28 shall provide, among other things, that both of the following  
29 occur:

30 (A) Upon the sale or conveyance of the real property, or any  
31 part thereof, for use other than for agricultural employee  
32 occupancy, the grantee or its successors shall, as a condition for  
33 the release of the lien provided pursuant to paragraph (4), repay  
34 to the fund the department's grant and loan funds.

35 (B) Upon the sale or conveyance of the real property or any  
36 part thereof for continued agricultural employee occupancy, the  
37 transferee shall assume the obligation of the transferor and the  
38 real property shall be transferred to the new owner; provided that  
39 the transferee agrees to abide by the agreement entered into  
40 between the transferor and the department and that the new

owner takes the property subject to the lien provided pursuant to paragraph (4), except that this lien shall, at the time of the transfer of the property to the new owner, be extended for an additional lien period determined by the department pursuant to paragraph (4), and the new owner shall not be credited with the lien period that had run from the time the transferor had acquired the property to the time of transfer to the new owner, unless the department determines that it is in the best interest of the state and consistent with the intent of this section to so credit the lien period to the new owner. However, the lien shall have priority as of the recording date of the lien for the original grantee, pursuant to paragraph (4).

(e) The department may do any of the following with respect to grantees:

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit that is occupied, whether or not any occupant is actually present, without the consent of the occupant.

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(f) The department shall include in its annual report required by Section 50408, a current report of the Joe Serna, Jr. Farmworker Housing Grant Program. The report shall include, but need not be limited to, (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants or loans, or both, made to each grantee in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant or loan, or both, under this section, and an identification of each source, (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance,



1 and (7) the number of manufactured housing units assisted under  
2 this section:

3 (g) ~~As used in this section:~~

4 (1) ~~“Agricultural employee” has the same meaning as~~  
5 ~~specified in subdivision (b) of Section 1140.4 of the Labor Code,~~  
6 ~~but also includes any person who works at a packing shed for a~~  
7 ~~labor contractor or other entity that contracts with an agricultural~~  
8 ~~employer in order to perform services in connection with~~  
9 ~~handling, drying, packing, or storing any agricultural commodity~~  
10 ~~in its raw or natural state, whether or not this person is~~  
11 ~~encompassed within the definition specified in subdivision (b) of~~  
12 ~~Section 1140.4 of the Labor Code.~~

13 (2) ~~“Grantee” means the local public entity, nonprofit~~  
14 ~~corporation, or limited partnership that is awarded the grant or~~  
15 ~~loan, or both, under this section, and, at the request thereof, may~~  
16 ~~include an agricultural employee receiving direct payment of a~~  
17 ~~grant for rehabilitation under this section who occupies the~~  
18 ~~assisted housing both before and after the rehabilitation and may~~  
19 ~~include an agricultural employee receiving direct payment of a~~  
20 ~~grant for construction under this section who will occupy the~~  
21 ~~assisted housing and who is a participant in a rehabilitation or~~  
22 ~~construction program sponsored and supervised by a local public~~  
23 ~~entity, nonprofit corporation, or limited partnership.~~

24 (3) ~~“Housing” may include, but is not necessarily limited to,~~  
25 ~~conventionally constructed units and manufactured housing~~  
26 ~~installed pursuant to either Section 18551 or 18613.~~

27 (4) ~~“Limited partnership” means a limited partnership where~~  
28 ~~all of the general partners are nonprofit mutual or public benefit~~  
29 ~~corporations.~~

30 (h) ~~The department may provide the assistance offered~~  
31 ~~pursuant to this chapter in any area where there is a substantial~~  
32 ~~unmet need for farmworker housing.~~

33 SEC. 2. ~~This act is an urgency statute necessary for the~~  
34 ~~immediate preservation of the public peace, health, or safety~~  
35 ~~within the meaning of Article IV of the Constitution and shall go~~  
36 ~~into immediate effect. The facts constituting the necessity are:~~

37 ~~In order to make immediate changes in the requirements of the~~  
38 ~~Joe Serna, Jr. Farmworker Housing Grant Program to ensure that~~  
39 ~~migrant housing will be build and that the money for that purpose~~

- 1 ~~will not revert to other uses, it is necessary that this act take~~
- 2 ~~effect immediately.~~

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